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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

AF
JRW

Applicant: Seymour, et al.

Application/Control No.: 10/737,048

Art Unit: 3632

Filed: 12/16/2003

Examiner: Sterling, Amy Jo

For: BRACKET ASSEMBLY

Commissioner for Patents
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Sir:

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, Box 1450 Alexandria, VA 22313, on

June 5, 2006

W.H. McNeill
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AMENDED APPEAL BRIEF UNDER 37 C.F.R. 41.37

Applicant(s) hereby present(s) to the Board Of Appeals his/her/their Amended Brief in support of his/her/their Appeal from the decision of the Primary Examiner finally rejecting Claims 1-3, in the above-identified application. The \$500.00 fee has previously been paid (via a charge to Deposit Account No. 15-0685. ~~A triplicate of this page is enclosed for Fee purposes.~~ The Amended Brief is submitted in response to the Notification of Non-Compliant Appeal Brief dated 05/30/2006.

REAL PARTY IN INTEREST

The real party in interest is OSRAM SYLVANIA Inc., a wholly owned subsidiary of Siemens Corp.

RELATED APPEALS AND INTERFERENCES

There are no appeals or interferences pending which are related to the instant appeal.

STATUS OF CLAIMS

Claims 1-3 have been rejected.

Claims 1-3 are appealed. These claims are delineated in the Appendix attached hereto.

STATUS OF AMENDMENTS

All amendments have been entered.

SUMMARY OF CLAIMED SUBJECT MATTER

INDEPENDENT CLAIM 1

The invention as described in Claim 1 relates to an assemblage (8, Fig. 1, specification pages 2 and 4) that comprises an electrical connector (10, Figs. 1 and 3, specification pages 2 and 4) having body (12, Figs. 1 and 3, specification pages 2 and 4) with a tubular projection (14, Figs. 1 and 3, specification pages 2 and 4) having *a push-through portion* (16, Figs. 1 and 3, specification pages 2 and 4) *having a first diameter* and an engaging portion (18, Figs. 1 and 3, specification pages 2 and 4) having a second diameter larger than the first diameter. A support (20, Figs. 1, 2, 3, specification pages 3 and 4) for the electrical connector (10, Figs. 1 and 3, specification pages 2 and 4) has a major part (22, Figs. 1,2,3, specification pages 3 and 4) that is substantially rigid and includes an aperture (24, Figs. 1 and 2, specification pages 3 and 4) formed by a plurality of deflectable spokes (26, Figs. 1 and 2, specification pages 3 and 4). *The aperture (24, Figs. 1 and 2, specification paes 3 and 4) has a center opening* (28, Fig. 2, specification pages 3 and 4) *with a third diameter greater than the first diameter* (Fig. 2, specification pages 3 and 4) and less than the second diameter, whereby the tubular projection push-through portion (16, Figs. 1 and 2, specification pages 3 and 4) slides through the aperture (24, Fig. 1, specification pages 3 and 4) and the spokes (26, fig. 1, specification pages 3 and 4) engage the second diameter of the engaging portion (18, Fig. 1, specification pages 3 and 4) and mount the electrical connector (10, Figs. 1 and 3, specification pages 3 and 4) with the support (20, Figs. 1 and 3, specification pages 3 and 4). The assemblage thus provides an electrical connector that **directly** engages a support without needing an intermediary feature.

DEPENDENT CLAIM 2

Claim 2 requires a stop (30, Figs. 1 and 3, specification pages 3 and 4) That limits the amount of insertion of the electrical connection into the support (20, Fig. 3, specification pages 3 and 4).

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DEPENDENT CLAIM 3

Claim 3 requires that the spokes (26, Figs. 1 and 2, specification pages 3 and 4) diverge away from the plane of the major part (22, Figs. 1,2,3, specification pages 3 and 4) of the support (20, Figs. 1, 2, 3, specification pages 3 and 4).

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Whether claims 1-3 are patentable under 35 U.S.C. §102(b) in view of U.S. Patent No. 6,189,407 to Champ et al.

ARGUMENT

35 U.S.C. 102

The rejection of Claims 1-3 as being anticipated by Champ et al, 6,189,407 is respectfully traversed and reversal is requested.

"Factual determination of anticipation requires disclosure in single reference of every element of claimed invention, and examiner must identify wherein each and every facet of claimed invention is disclosed in applied reference." Ex parte Levy: 17 USPQ2d; PTO Bd of Pat. App. and Int.; October 16, 1990

Champ et al. '407 relates to a connector that utilizes a sleeve member 20 and a lock member 30 ('407, col. 6 lines 65 -67, col. 7 lines 1-67) for mounting in a hole 18 in a support 16. The sleeve member 20 of Champ et al. has a minimum of five different diameters (see Fig. 1 of Champ et al. reproduced in the Final Rejection) and as many as six diameters (see Fig. 10B of Champ et al.).

In not a single embodiment of Champ et al. is there provided a *first diameter* with a diameter smaller than the aperture diameter. And, it makes no difference as to which diameter the examiner considers the "first diameter" to be, although it would seem to be a matter of common sense that a "first diameter" would occur at a leading edge of a connector and not in the middle, as proposed by the Examiner's mark-up of Champ et al. Fig. 1. However, that distinction is immaterial since, as a matter of fact, *every* diameter of the sleeve member 20 of Champ et al. is larger than the diameter of the spoke end of Champ et al. lock member 30.

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The situation of Champ et al. thus insures that all of the initial portions of the sleeve member 20 of Champ et al. are scored by their spokes 34 before the sleeve member 20 reaches its final position. This is necessitated by the fact that utilization of the Champ et al. connector requires that the lock member 30 itself be capable of being inserted through an aperture 18 in a wall 16.

The instant invention, as clearly recited in the claims, allows the the first diameter of the push-through portion of applicants' connector to penetrate applicants' spoked aperture with any scoring or damage at all caused by applicants' spokes 26.

This feature is not disclosed, suggested nor even hinted at by Champ et al.

Claim 2 adds the limitation of the stop 30 and Claim 3 requires that the spokes 26 diverge away from the plane of the major part 22 of the support 20. These dependent claims add limitations to the patentable features of Claim 1 and are thus patentable as well.

"Federal district court erred in holding that dependent claim ...was invalid for lack of novelty over prior art, since dependent claim contained all limitations of independent claim, which was correctly held nonobvious." Hartness International v. Simplimatic, 2 USPQ 2d, 1826, May 12, 1987.

Accordingly, the rejection is in error and reversal is respectfully requested.

Respectfully submitted,



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CLAIMS APPENDIX

1. An assemblage comprising:

an electrical connector having a metal body with a tubular projection having a push-through portion having a first diameter and an engaging portion having a second diameter larger than said first diameter;

and a metal support having a major part that is substantially rigid and includes an aperture formed by a plurality of deflectable spokes, said aperture having a center opening with a third diameter greater than said first diameter and less than said second diameter, whereby said tubular projection push-through portion slides through said aperture and said spokes engage said second diameter of said engaging portion and mount said electrical connector with said support.

2. The assemblage of Claim 1 wherein a stop associated with said second diameter limits the amount of movement possible for said support.

3. The assemblage of Claim 2 wherein said spokes of said support diverge away from the plane of said major part of said support.

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EVIDENCE APPENDIX

No additional evidence has been submitted in this application.

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RELATED PROCEEDINGS APPENDIX

There are no related proceedings under 37 CFR 41.37(c)(1)(ii) in this application